

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 29 April 2003

CASE NO. 2003-LCA-00011

In the Matter of

Administrator, Wage & Hour Division,
Prosecuting Party,

v.

Worldlink Technologies, LLP., Kristie Barker, and DOES 1-10,
Respondents.

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND CONSENT FINDINGS**

The U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division issued a determination letter dated December 26, 2002, alleging violations of the H-1B provisions of the Immigration and Nationality Act of 1952 as amended by the Immigration Act of 1990, the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 and the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA)(Title IV of Pub.L.105.277, Oct. 21, 1998; 112 Stat.2681) found at 8 U.S.C. §1101, *et. seq.*; 8 U.S.C. § 1101(a)(15)(H)(i)(b). The Prosecuting Party determined that, among other things, the Respondents have failed to pay back wages and civil money penalties, failed to maintain and make available for public examination certain documentation, and failed to provide notice of the filing of U.S. Dept. of Labor ETA Form 9035 as required in violation of 20 C.F.R. §§ 655.731(b), 655.734, 655.760, 655.805(a)(2), 655(a)(14), 655.815 and Ch. V, Subpart H of the accompanying regulations.

On April 21, 2003, the parties filed a joint motion for approval of their Settlement Agreement and Consent Findings (the "Joint Motion for Settlement") which were signed by counsel for the Prosecuting Party and Respondent Worldlink Technologies, LLP, and also by a management representative of Worldlink Technologies, LLP, Kristie Barker, in both her representative capacity and individually accepting personal liability as a second party/Respondent. The agreement seeks to settle and resolve all controversies and claims existing as a result of the Prosecuting Party's investigation and summarily identified in Attachment A which is attached to the Joint Motion for Settlement. By way of the settlement, the Respondents agree to joint and several liability for payment of \$4,909.92 in full and complete settlement of all issues representing an agreed amount of back wages to be paid to the H-1B nonimmigrant identified in the agreement or the U.S. Department of Labor. The Respondents also agree to joint and several liability for

payment of an additional \$1,000 in full and complete settlement of all issues representing an agreed amount of civil money penalty to be paid to the U.S. Department of Labor. The aforementioned payments are due within 30 days of the entry of this Decision and Order approving the parties' Joint Motion for Settlement. Certain other conditions also attach to the payments and settlement all as outlined in the Joint Motion for Settlement, the terms of which are hereby incorporated by reference and a copy of which is attached.

The Rules of Practice and Procedure for Administrative Hearings for the Office of Administrative Law Judges ("OALJ") found at 29 C.F.R. Part 18 are applicable to this proceeding. 20 C.F.R. § 655.825(a).

ORDER

Upon review of the record, the Joint Motion for Settlement is granted and formally approved. **IT IS ORDERED** that:

1. This Order shall have the same force and effect as an order made after full hearing;
2. The entire record upon which this Order is based shall consist solely of the Administrator's December 26, 2002 Determination Letter and the Joint Motion for Settlement executed by the parties;
3. Any further procedural steps before the OALJ are waived;
4. All rights to challenge or contest the validity of this Order entered into in accordance with the Joint Motion for Settlement are hereby waived.

IT IS FURTHER ORDERED that this matter is hereby dismissed with prejudice.

A

Gerald M. Etchingham
Administrative Law Judge